

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

### WARM SPRINGS RESOURCE AREA

35 East 500 North

P.O. Box 778

Fillmore, Utah 84601



IN REPLY REFER TO:

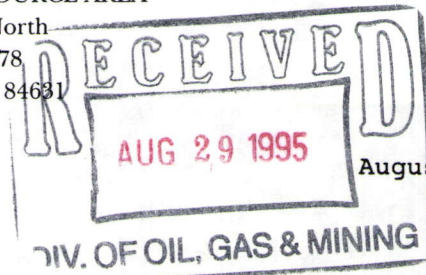
3800

(U-055)

UTU-072865

August 24, 1995

CERTIFIED MAIL #Z 212 229 314  
RETURN RECEIPT REQUESTED



#### DECISION

MIKE MCPHILOMY	:	43 CFR 3809
AMERICAN AGGREGATE	:	SURFACE MANAGEMENT
188 WEST - 100 SOUTH	:	NOTICE OF NONCOMPLIANCE
NEPHI UT 84648	:	

#### Notice of Failure, Reclaim Surface Disturbance, and Prevent Undue and Unnecessary Degradation

On May 10, 1995, a field inspection was conducted by a Bureau of Land Management representative. During this inspection an unauthorized surface disturbance created by mechanized earth moving equipment was discovered and documented. The disturbance is located in T. 13 S., R. 11 W., Section 17, W2E2, SLM, and encompasses approximately one acre.

On the date of the inspection, the following surface disturbances were observed:

1. Bladed areas with the surface soil and vegetative cover removed.
2. A road defined by heavy equipment use.
3. Land cleared by the removal of stone.
4. Litter.

On May 19, 1995, you submitted a Notice of Operations to House Range Resource Area to bring these activities into compliance with the 43 CFR § 3809 regulations for surface management. The notice proposed an "Uncommon variety of flagstone - rock to be removed by small rubber tire loader so as not to tear up any surface. No explosives planned at this time. Rock on surface." This notice is serialized UTU-072865.

Upon processing your notice it was determined the disturbances are on land segregated from all forms of appropriation, entry, location or selection under the public land laws, including the general mining laws. On June 6, 1995, you were informed by telephone that these lands are withdrawn from mineral entry and we requested that you come into our office to discuss the situation. On June 8, 1995, you visited this office and agreed to reclaim the disturbed areas described above. On June 9, 1995, this office sent you a letter rejecting your notice for the segregated land.

On July 19, 1995, a certified letter was sent you requiring reclamation to commence within 15 days from receipt of the letter. A surface compliance inspection conducted on August 14, 1995, verified that no reclamation has taken place.



Your operations are in violation of and in noncompliance with the following Federal regulations:

1. 43 CFR 3809.1-3(a) requires that all operators who disturb five acres or less file a Notice of Intent at least 15 days prior to commencing operations.
2. 43 CFR 3809.1-3(d)(3) requires that all surface disturbances be reclaimed at the earliest feasible time.
3. 43 CFR 3809.2-2 requires that all operations on mining claims be conducted so that unnecessary and undue degradation of the public lands does not occur.
4. 43 CFR 3809.2-2(c) requires that all garbage be removed from the affected lands or disposed of or treated to minimize, as far as practicable, its impact on the land.

To bring your operations under compliance with Federal regulations, you must:

1. Remove the litter.
2. Replace the soil and scatter the rocks that were pushed to the side of the road back into the roadbed.
3. Rip the areas where vegetation existed before any surface disturbing activities took place.
4. Broadcast the following seed mixture at the specified rate. Certified pure live seed must be used, then lightly harrow the land to bed the seed. A copy of the seed tag and purchase receipt is required for our files.

		lbs/acre
Indian ricegrass	<u>Oryzopsis hymenoides</u>	4
Great Basin wildrye	<u>Elymus cinereus</u>	2
Winterfat	<u>Eurotia lanata</u>	4
Black sagebrush	<u>Artemisia nova</u>	2
Forage kochia	<u>Kochia prostrata</u>	2
Shadscale	<u>Atriplex confertifolia</u>	4
Fourwing Saltbush	<u>Atriplex canescens</u>	6

The above actions must be completed within thirty (30) days from your receipt of this notice of noncompliance.

Should you fail to comply with the requirements that have been detailed above, you will establish a record of noncompliance. Should this happen, you will be required to submit a plan of operations for any activity that would normally have required only a notice, and a mandatory bond will be required for all mining related activities.

Your area of operations will be monitored to document the corrective actions. Also, you must notify us when you have complied with the above directives.

In accordance with 43 CFR 3809.4, you have the right of appeal to the Utah State Director. Direct correspondence to:

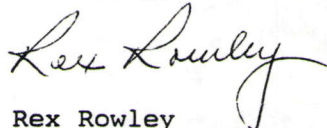
Utah State Director  
Bureau of Land Management  
P.O. Box 45155  
Salt Lake City, Utah 84145-0155.

If you exercise this right, your appeal must be accompanied by:

1. The name and address of the appellant,
2. The name and serial numbers of any involved mining claims, and
3. A statement of reasons for the appeal and any arguments you wish to present, which would justify reversal or modification to this decision.

Your appeal must be filed in writing at this office within thirty (30) days after you receive this decision. This decision will remain in effect during the appeal unless a written request for a stay is granted.

Sincerely,



Rex Rowley  
Area Manager

cc: U-921  
U-050  
U-024

D. Wayne Hedberg, UDOGM